

MATERIALS ON CONFLICTS

Volume 2

Professor John Swan

1983 - 1984

LAW LIBRARY

NGV 21984

FACULE OF TURNT

MATERIALS ON CONFLICTS

Volume 2

Professor John Swan

1983 - 1984

I am grateful for the help that I have received from Alice Ng, Martha Mackinnon, and Sue Weedon in putting these materials together. Alice has been unfailingly cheerful and careful in endless typing, cutting and pasting. Sue has been responsible for extensive revisions of the materials and is almost entirely responsible for putting together the materials on matrimonial property. She and Annette Nicholson are together largely responsible for the content of that section of these materials.

These materials are for use by students in the Faculty of Law, University of Toronto, and by students in other universities to which these materials have been distributed. The materials are not otherwise for publication or commercial sale. All rights reserved. Digitized by the Internet Archive in 2018 with funding from University of Toronto

TABLE OF CONTENTS

VOLUME 2

Par	t 1. Family Law	
Α.	Introduction	1
В.	Domicile	3
	Gunn v. Gunn	7
	Osvath-Latkoczy v. Osvath-Latkoczy	10
	Stephen v. Stephen	12
	Armstrong v. Armstrong	17
	John Swan, "Annual Survey: Conflict of Laws"	20
	Udny v. Udny	24
	A.G. Alberta v. Cook	29
	Harrison v. Harrison	40
	Note on Renvoi	41
	Re Annesley	43
C.	Marriage	
	1. <u>Introduction</u>	50
	Glendon, 'Modern Marriage Laws and its Underlying Assumptions: The New Marriage and the New Property'	54
	2. The Formalities of Marriage	60
	Berthiaume v. Dastous	61
	Starkowski v. Attorney General	69
	- Questions	75
	Ambrose v. Ambrose	76
	Questions	83
	Re Howe Louis	84
	" Questions	87
1.	Taczanowska v. Taczanowski	91
40	Notes and Questions	96
	3. Parental Consent	104
	Ogden v. Ogden	105
	Notes and Questions	112

	4.	Matters Other Than Formal Validity	116
		Brook v. Brook	117
		E.S. Turner, Roads to Ruin	122
		Cheshire & North	133
		Sottomayor v. De Barros (#1)	136
		Questions	139
		Sottomayor v. De Barros (#2)	140
		Dicey and Morris	144
		Radwan v. Radwan (#2)	146
		Feiner v. Demkowicz	153
		Questions	158
		In Re May's Estate	158
		Lanham v. Lanham	162
		Notes and Questions	163
		R v. Brentwood Supt. Registrar, ex.p. Arias	164
	5.	Polygamous Marriages	168
		Cheni v. Cheni	171
D.	Mati	rimonial Causes	176
	1.	Introduction	176
		Matrimonial Causes Act	179
		Domicile and Matrimonial Proceedings Act	180
	2.	Divorce	182
		(a) The General Rules	182
		Indyka v. Indyka	183
		Messina v. Smith	197
		Vervaeke v. Smith	208
		Questions	215
		Hornett v. Hornett	218
		Problem and Question	223
		E1-Sohemy v. E1-Sohemy	224
		Questions	226
		Savelieff v. Glouchkoff	227
		Soloman v. Walters	230

	(b) Recognition of Foreign Decrees	232
	Von Lorang v. Administrator of Austrian Property	232
	Padolecchia v. Padolecchia	243
	Garfield, "The Transitory Divorce Action:	
	Jurisdiction in the No-fault Era"	251
	Schwebel v. Ungar	263
	Questions and Problem	273
	Russ v. Russ	276
	Wood v. Wood	285
	(b) Discretionary Grounds for Refusal to Recognize	294
	Igra v. Igra	294
	Questions	297
	Meyer v. Meyer	298
	Questions	305
	MacAlpine v. MacAlpine	306
	Questions	312
	Powell v. Cockburn	313
	Swan, "Annual Survey of Canadian Law. Conflict of Laws: Part I"	325
	(c) Effect of Invalid Foreign Decrees	336
	Downton v. Royal Trust Co.	336
	Re Reid and Reid	345
	Notes and Questions	347
3.	Nullity	349
	(a) Jurisdiction	349
	De Reneville v. De Reneville	349
	(b) Discretionary Grounds for Refusal to	
	Recognize	359
	Gray v. Formosa	359
	Questions and Notes	364

Ε.	Child Custody		365
	Chi	ldren's Law Reform Act	367
F.	Maintenance Orders		
	1.	The Common Law Background	372
	2.	Under the Divorce Act	373
	3.	Reciprocal Enforcement Legislation	374
G.	Mat	rimonial Property	375
	1.	Introduction	376
		Re Palmer and Palmer	378
		Questions	381
	2.	Change of Domicile Between Marriage and Death	382
		(a) Prior to the FLRA or FRA	382
		Devos v. Devos	383
		Rail v. Rail	390
		Notes and Questions	393
		Pouliot v. Cloutier	395
		Abella, Family Law in Ontario: Changing Assumptions	399
		Beaudoin v. Trudel	402
		(b) Effect of Recent Family Legislation	408
		Family Law Reform Act	408
		Bissett-Hohnson, Holland, ed., Matrimonial Property Law in Canada	409
		Kerr v. Kerr	412
		The Family Relations Act	418
		Hansson v. Hansson	418
		Charpentier v. Smith-Doiron et al.	422
	3.	Alternatives	428
		Donovan Waters, ''Matrimonial Property Entitlements and the Quebec Conflicts of Law''	431
		F.K. Juenger, 'Marital Property and the Conflict of Laws: A Tale of Two Countries'	434
		Hughes v. Hughes	436
		Questions	439